



California Regional Water Quality Control Board Lahontan Region



CLC

Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

MEMORANDUM

TO: Bruce Kinney, Deputy Regional Manager
California Dept. of Fish & Game
407 West Line Street
Bishop, CA 93514

James Starr, Fisheries Branch
California Dept. of Fish & Game
830 S Street
Sacramento, CA 95814


FROM: CHUCK CURTIS
SUPERVISING WATER RESOURCE CONTROL ENGINEER
CLEANUP AND ENFORCEMENT DIVISION

DATE: FEB. 01 2010

SUBJECT: COMPLAINT NO. R6V-2010-0004, ISSUED TO THE CALIFORNIA
DEPARTMENT OF FISH AND GAME FOR MANDATORY MINIMUM
PENALTY, HOT CREEK FISH HATCHERY, MAMMOTH LAKES, MONO
COUNTY - WDID NO. 6B260801001

Attached is *Administrative Civil Liability Complaint for Mandatory Minimum Penalty No. R6V-2010-0004* (Complaint). The Complaint contains allegations that the California Department of Fish and Game (DFG) violated effluent limitations specified by Board Order No. R6V-2006-0027, National Pollutant Discharge Elimination System Permit No. CA0102776, from August 14, 2006 through May 4, 2009. The Complaint lists the dates and nature of the violations. In the Complaint, Lahontan Water Board staff proposes that DFG be assessed a mandatory minimum penalty in the amount of **two hundred twenty-five thousand dollars (\$225,000)**.

Waiver of Hearing

Pursuant to Water Code section 13323, the Water Board will hold a hearing on the Complaint no later than 90 days after it is served. DFG may elect to waive its right to a hearing before the Water Board and agree to pay the proposed liability. Waiver of the hearing constitutes acceptance of the assessment of civil liability in the amount of

California Environmental Protection Agency



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\$225,000, as set forth in the Complaint. If DFG wishes to exercise this option, it must complete the following:

By 5:00 p.m., March 1, 2010, an authorized agent must sign the attached waiver and submit it to the Lahontan Water Board's South Lake Tahoe office at the following address:

Lahontan Regional Water Quality Control Board
Attn: Chuck Curtis, Cleanup and Enforcement Division Manager
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Please note that DFG's waiver and agreement to pay the proposed liability constitutes a proposed settlement, which will not be effective until reasonable opportunity for public participation has been provided pursuant to Code of Federal Regulations, title 40, section 123.27(d)(2)(iii) and the State Water Resources Control Board's 2002 Enforcement Policy. The Lahontan Water Board will notify interested persons of any proposed settlement and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after a public comment period.

As described in the attached waiver, Lahontan Water Board staff may withdraw the Complaint, return payment and issue a new complaint should new information be received during the comment period. If no information is received which causes Water Board staff to withdraw the Complaint, the settlement will be brought before the full Lahontan Water Board for approval at a future meeting. Payment of the liability will be due within 30 days of the settlement becoming final. Payment must be made with a cashier's check or money order and made payable to the *State Water Pollution Cleanup and Abatement Account*.

Public Hearing

Alternatively, if DFG elects to proceed to a public hearing, a hearing is tentatively scheduled to be held at the Lahontan Water Board meeting on **April 14-15, 2010**. The meeting is scheduled to convene at a time and location as announced in the Lahontan Water Board meeting agenda. The agenda will be issued at least ten days before the meeting and will be posted on the Lahontan Water Board web page at www.waterboards.ca.gov/lahontan. At that time, the Lahontan Water Board will accept testimony and public comment and decide whether to affirm, reject, or modify the proposed liability, or whether to refer the matter for judicial civil action.

To ensure the Lahontan Water Board has the opportunity to fully consider written comments, all comments must be submitted in accordance with the deadlines identified in the hearing procedures that will be sent to you under separate cover. Written objections and materials submitted after the deadlines specified in the hearing

procedures will not be accepted, except at the discretion of the Lahontan Water Board Chair. Untimely written material or objections will not be accepted or incorporated into the record if doing so would prejudice the Water Board or any Designated Party. The Chair may choose to modify this rule upon a showing of severe hardship. (Cal Code Regs., title 23, sections 648.1 and 648.4.) Any person seeking to submit late written materials must justify why the materials could not have been submitted earlier.

Please contact State Water Resources Control Board Office of Enforcement Attorney Mayumi Okamoto at (916) 341-5674, or Taylor Zentner at (530) 542-5469 if you have any questions concerning this matter.

Attachments: 1. Complaint No. R6V-2010-0004
2. Waiver Form

cc: Harold J. Singer, Executive Officer/Lahontan Water Board
Mayumi Okamoto, Staff Counsel/SWRCB, Office of Enforcement
David Coupe, Staff Counsel/SWRCB, Office of Chief Counsel
Hot Creek Hatchery Mailing List

TBZ/clhT: Hot Creek MMP ACL – Cover Memo, 1-20-2010
File: SLT/VVL: Hot Creek Hatchery WDID No. 6B260801001



HOT CREEK FISH HATCHERY MAILING LIST

*BRUCE KINNEY
DEPUTY REGIONAL MANAGER
DEPT OF FISH & GAME REGION 6
407 WEST LINE STREET
BISHOP CA 93514
bkinney@dfg.ca.gov

JAMES STARR
FISHERIES BRANCH
CALIFORNIA DEPT OF FISH AND GAME
830 S STREET
SACRAMENTO CA 95814
jstarr@dfg.ca.gov

GARY WILLIAMS
SENIOR HATCHERY SUPERVISOR
CALIFORNIA DEPT OF FISH AND GAME
12550 JACARANDA AVE
VICTORVILLE CA 92395-5138
glwilliams@dfg.ca.gov

VERNON CARR
FISH HATCHERY MANAGER II
CALIFORNIA DEPT OF FISH AND GAME
HCR 79, BOX 208
MAMMOTH LAKES CA 93546
vcarr@dfg.ca.gov

DISTRICT ENGINEER
DHS OFFICE OF DRINKING WATER
464 W 4TH STREET STE 437
SAN BERNARDINO CA 92401

MONO COUNTY HEALTH DEPT
DENNIS LAMPSON CO SANITARIAN
PO BOX 476
BRIDGEPORT CA 93517

BILL NICHOLS
HOT CREEK RANCH
ROUTE 1 BOX 206
MAMMOTH LAKES CA 93546

GENE COUFAL, MANAGER
DEPT OF WATER & POWER
CITY OF LOS ANGELES
300 MANDICH STREET
BISHOP CA 93514-3449

BOB PIEROTTI
STATE DEPT OF WATER RESOURCES
770 FAIRMONT AVENUE
GLENDALE CA 91203-1035

ERIN LUTRICK
UNITED STATES FOREST SERVICE
351 PACU LANE SUITE 200
BISHOP CA 93514
elutrick@fs.fed.us

WILLIAM J. THOMAS
CHANCE RANCH
1201 K STREET SUITE 1100
SACRAMENTO CA 95814

ROB LUSARDI
CALTROUT
EASTERN SIERRA CONSERVATION MGR
870 MARKET STREET SUITE 528
SAN FRANCISCO CA 94102

KEN GREENBERG
WATER DIVISION (WTR-7)
USEPA REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO CA 94105
greenberg.ken@epa.gov

FATIMA TY
WATER DIVISION (WTR-7)
USEPA REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO CA 94105
ty.fatima@epa.gov

ALAN MILLER
LAHONTAN REGIONAL WATER
QUALITY CONTROL BOARD
ELECTRONIC COPY ONLY

CINDI MITTON
LAHONTAN REGIONAL WATER
QUALITY CONTROL BOARD
ELECTRONIC COPY ONLY

MIKE PLAZIAK
LAHONTAN REGIONAL WATER
QUALITY CONTROL BOARD
ELECTRONIC COPY ONLY

MIKE COONY
LAHONTAN REGIONAL WATER
QUALITY CONTROL BOARD
ELECTRONIC COPY ONLY

PHIL ISORENA
NPDES PROGRAM MANAGER
STATE WATER RESOURCES
CONTROL BOARD
pisorena@waterboards.ca.gov
ELECTRONIC COPY ONLY

MARK BRADLEY
STATE WATER RESOURCES
CONTROL BOARD, OFFICE OF
ENFORCEMENT
mbradley@waterboards.ca.gov
ELECTRONIC COPY ONLY

MAYUMI OKAMOTO
STATE WATER RESOURCES CONT
BOARD
1001 I STREET 16TH FLOOR
SACRAMENTO CA 95814
mokamoto@waterboards.ca.gov

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

In the Matter of California Department
of Fish and Game: Violation of Effluent
Limitations Contained in Board Order
No. R6V-2006-0027 for the Hot Creek
Fish Hatchery, Mammoth Lakes,
Mono County, WDID No. 6B260801001

)
) COMPLAINT NO.
) R6V-2010-0004
) FOR MANDATORY
) ADMINISTRATIVE CIVIL
) LIABILITY

This Complaint to assess mandatory minimum penalties pursuant to California Water Code (Water Code) sections 13385(h) and (i) is issued to the California Department of Fish and Game (Discharger) based on findings of violations of Waste Discharge Requirements specified for Hot Creek Fish Hatchery (Facility) by the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board), Board Order No. R6V-2006-0027, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0102776.

Staff of the Lahontan Water Board finds the following:

1. On June 14, 2006, the Lahontan Water Board adopted Board Order No. R6V-2006-0027, NPDES Permit No. CA0102776.
2. Water Code section 13385(h)(1) requires the Lahontan Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each **serious violation**.
3. Water Code section 13385(h)(2) provides that a **serious violation** occurs if the discharge exceeds the effluent limitations (a) by 40 percent or more for a Group I pollutant, as specified in Appendix A to section 123.45 of title 40, Code of Federal Regulations, or (b) by 20 percent or more for a Group II pollutant, as specified in Appendix A to section 123.45 of title 40, Code of Federal Regulations.
4. Water Code section 13385(i) requires the Lahontan Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in a period of six consecutive months (**chronic violations**):
 - a. violates a waste discharge requirement effluent limitation;
 - b. fails to file a report pursuant to Water Code section 13260;
 - c. files an incomplete report pursuant to Water Code section 13260; or

- d. violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Water Code section 13385(i)(2) defines a "period of six consecutive months" as, "...the period commencing on the date that one of the violations described in this subdivision [Water Code section 13385(i), or Finding No. 4 of this Complaint] occurs and ending 180 days after that date." However, **serious violations** may qualify as chronic violations for the purposes of determining a "period of six consecutive months," and may count as the first three **chronic violations**, though such violations are not counted twice for the purpose of assessing the penalty amount.
6. Nitrite plus nitrite as nitrogen and flow are Group I pollutants.
7. The NPDES Permit includes the following discharge specifications:
 - a. Section IV.A.1.b requires wastewater discharged from the Facility not to exceed the following effluent limits for nitrate plus nitrite as nitrogen at monitoring locations M-001, M-002, M-003, and M-004:
 - i. 0.23 mg/L Average Monthly
 - ii. 0.31 mg/L Maximum Daily
 - b. Section IV.A.1.b requires wastewater discharged from the Facility not to exceed the following effluent limits for flow:
 - i. At M-001, 6.9 million gallons per day (MGD)
 - ii. At M-002, 6.5 MGD
 - iii. At M-003, 3.8 MGD
 - iv. At M-004, 2.5 MGD
9. Water Code section 13385.1(a)(1) provides that a **serious violation** also means a failure to file a discharge monitoring report required pursuant to Section 13383.
10. According to monitoring reports submitted by the Discharger from August 1, 2006 through May 31, 2009, the Discharger violated the NPDES Permit effluent limitations as listed in the table of violations provided in Attachment A, which is made a part of this Complaint. Additionally, the Discharger failed to submit the monitoring report that was to provide the monthly monitoring results for July 2006, which is also identified in Attachment A.
11. According to the definitions of **serious violations** in Finding Nos. 3 and 9, the Discharger committed 16 serious violations from August 14, 2006 to May 4, 2009, as shown on lines 2, 7, 37, 38, 41, 48, 51, 53, 69 through 72, and 74 through 77 of the table of violations provided in Attachment A of this Complaint. The amount of the mandatory minimum penalty for the 16

serious violations (\$3,000 for each of the 16 violations) is forty-eight thousand dollars (\$48,000).

12. According to the definition of **chronic violations** in Finding No. 4, the Discharger committed 74 chronic violations from September 2006 through May 4, 2009, as shown on lines 4 through 77 of the table of violations provided in Attachment A of this Complaint. Fifteen of these violations also constitute **serious violations** as noted in Finding Nos. 3 and 9. However, these 15 violations do not result in double penalties. The 74 **chronic violations** less the 15 **serious violations** to avoid double penalty results in 59 remaining **chronic violations**. The amount of the mandatory minimum penalty for the 59 remaining **chronic violations** (\$3,000 for each of the 59 violations) is one hundred seventy-seven thousand dollars (\$177,000).
13. The total amount of the mandatory minimum penalty from August 14, 2006 through May 4, 2009 is (\$48,000 + \$177,000) two hundred twenty-five thousand dollars (\$225,000).
14. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with the California Code of Regulations title 14, chapter 3, section 15321.

THE CALIFORNIA DEPARTMENT OF FISH AND GAME IS HEREBY GIVEN NOTICE THAT:

1. Staff of the Lahontan Water Board proposes that the Discharger be assessed a mandatory minimum penalty in the amount of two hundred twenty-five thousand dollars (\$225,000), pursuant to Water Code section 13385.
2. The Lahontan Water Board will hold a public hearing on this matter at its **April 14 and 15, 2010** meeting, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Lahontan Water Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to accept the amount of proposed mandatory minimum penalty. The Lahontan Water Board may also decide to continue the matter to a future hearing, direct the Cleanup and Enforcement Division Manager to reissue the Complaint to propose additional penalties under Water Code section 13385(c) and (e), or refer the matter to the California Attorney General. The public hearing is scheduled at the regularly scheduled Lahontan Water Board meeting on **April 14 and 15, 2010**, at a location and time yet to be determined. A notice of the

location and time of the meeting will be provided no less than 10 days before the meeting.

3. Notwithstanding the issuance of this Complaint, the Lahontan Water Board shall retain the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

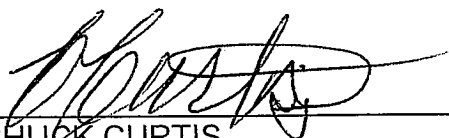
WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the Complaint. If you wish to waive your right to a hearing, an authorized person must sign the Waiver of Hearing form prepared for this Complaint, and submit it to the address below.

Lahontan Regional Water Quality Control Board
Attn: Chuck Curtis, Cleanup and Enforcement Division Manager
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Please note that any settlement will not be effective until reasonable opportunity for public participation has been provided pursuant to Code of Federal Regulations, title 40, section 123.27(d)(2)(iii) and the State Water Resources Control Board's 2002 Enforcement Policy. The Lahontan Water Board will notify interested persons of any proposed settlement and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after a public comment period.

Payment of the liability will be due within 30 days of the settlement becoming final. Payment must be made with a cashier's check or money order and made payable to the *State Water Pollution Cleanup and Abatement Account*.



CHUCK CURTIS
CLEANUP AND ENFORCEMENT
DIVISION MANAGER

February 1, 2010
Date

Attachment: A - Table of Violations

Attachment A - Table of Violations

Hot Creek Hatchery MMP Violations Table

No.	Date	Violation Type	Location	Parameter	Description	MMP
1	8/14/2006	Chronic	M-004	Flow	Flow rate of 3.16 MGD at M-004 exceeds the Effluent Limit of 2.5 MGD	0
2	9/2/2006	Serious	Reporting	Reporting	July 2006 monthly SMR due on September 1, 2006. July 2006 monthly SMR never received	1
3	Sep-06	Chronic	M-002	Flow	Flow rate of 7.0 MGD at M-002 exceeds the Effluent Limit of 6.5 MGD	0
4	Sep-06	Chronic	M-001	Flow	Flow rate of 7.0 MGD at M-001 exceeds the Effluent Limit of 6.5 MGD	1
5	Sep-06	Chronic	M-004	Flow	Flow rate of 2.7 MGD at M-004 exceeds the Effluent Limit of 2.5 MGD	1
6	9/18/2006	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.280 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
7	9/18/2006	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.322 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
8	9/18/2006	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.322 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1
9	10/23/2006	Chronic	M-002	Flow	Flow rate of 6.7 MGD at M-002 exceeds the Effluent Limit of 6.5 MGD	1
10	11/13/2006	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.240 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
11	11/13/2006	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.238 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
12	11/13/2006	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.231 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
13	11/13/2006	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.277 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
14	11/29/2006	Chronic	M-001	Potassium Permanganate	Analytical result of 0.674 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.12 mg/L	1
15	11/29/2006	Chronic	M-001	Potassium Permanganate	Analytical result of 0.674 mg/L at M-001 exceeds the Instantaneous Maximum Effluent Limit of 0.25 mg/L	1
16	11/29/2006	Chronic	M-002	Potassium Permanganate	Analytical result of 0.743 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.12 mg/L	1
17	11/29/2006	Chronic	M-002	Potassium Permanganate	Analytical result of 0.743 mg/L at M-002 exceeds the Instantaneous Maximum Effluent Limit of 0.25 mg/L	1
18	3/26/2007	Chronic	M-003	Flow	Flow rate of 4.4 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
19	3/26/2007	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.247 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
20	3/26/2007	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.243 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
21	3/26/2007	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.249 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
22	3/26/2007	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.236 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
23	5/7/2007	Chronic	M-003	Flow	Flow rate of 4.1 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
24	6/4/2007	Chronic	M-003	Flow	Flow rate of 4.94 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
25	6/4/2007	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.251 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
26	6/4/2007	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.239 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
27	7/9/2007	Chronic	M-003	Flow	Flow rate of 4.6 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
28	8/6/2007	Chronic	M-003	Flow	Flow rate of 4.18 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
29	9/10/2007	Chronic	M-003	Flow	Flow rate of 4.2 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
30	9/10/2007	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.236 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
31	9/10/2007	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.243 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
32	12/10/2007	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.266 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
33	2/4/2008	Chronic	M-003	Flow	Flow rate of 4.30 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
34	3/3/2008	Chronic	M-003	Flow	Flow rate of 4.4 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
35	3/3/2008	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.264 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
36	3/3/2008	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.265 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
37	3/3/2008	Serious*/Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.380 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
38	3/3/2008	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.406 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
39	3/3/2008	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.380 mg/L at M-003 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1
40	3/3/2008	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.406 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1
41	4/7/2008	Serious*/Chronic	M-003	Flow	Flow rate of 5.4 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD by more than 40%	1
42	5/5/2008	Chronic	M-003	Flow	Flow rate of 5.30 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
43	6/2/2008	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.292 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
44	6/2/2008	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.312 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
45	6/2/2008	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.312 mg/L at M-001 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1
46	6/2/2008	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.255 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
47	6/2/2008	Chronic	M-003	Flow	Flow rate of 5.4 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
48	6/2/2008	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.364 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
49	6/2/2008	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.364 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1

Attachment A - Table of Violations

Hot Creek Hatchery MMP Violations Table - Continued

No.	Date	Violation Type	Location	Parameter	Description	MMP
50	7/7/2008	Chronic	M-001	Flow	Flow rate of 7.0 MGD at M-001 exceeds the Effluent Limit of 6.9 MGD	1
51	7/7/2008	Serious*/Chronic	M-003	Flow	Flow rate of 6.0 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD by more than 40%	1
52	8/4/2008	Chronic	M-001	Flow	Flow rate of 7.3 MGD at M-001 exceeds the Effluent Limit of 6.9 MGD	1
53	8/4/2008	Serious*/Chronic	M-003	Flow	Flow rate of 6.6 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD by more than 40%	1
54	9/8/2008	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.287 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
55	9/8/2008	Chronic	M-003	Flow	Flow rate of 4.8 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
56	9/8/2008	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.316 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
57	9/8/2008	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.316 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L	1
58	10/6/2008	Chronic	M-003	Flow	Flow rate of 4.0 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
59	11/2/2008	Chronic	M-003	Flow	Flow rate of 4.0 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
60	12/1/2008	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.258 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
61	12/1/2008	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.256 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
62	12/1/2008	Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.254 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
63	12/1/2008	Chronic	M-003	Flow	Flow rate of 4.0 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
64	12/1/2008	Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.253 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
65	1/5/2009	Chronic	M-003	Flow	Flow rate of 3.9 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
66	2/2/2009	Chronic	M-003	Flow	Flow rate of 3.88 MGD at M-003 exceeds the Effluent Limit of 3.8 MGD	1
67	3/2/2009	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.272 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
68	3/2/2009	Chronic	M-002	Nitrate + Nitrite	Analytical result of 0.266 mg/L at M-002 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
69	3/2/2009	Serious*/Chronic	M-003	Nitrate + Nitrite	Analytical result of 1.07 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
70	3/2/2009	Serious*/Chronic	M-003	Nitrate + Nitrite	Analytical result of 1.07 mg/L at M-003 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L by more than 40%	1
71	3/2/2009	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.72 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
72	3/2/2009	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.72 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L by more than 40%	1
73	5/4/2009	Chronic	M-001	Nitrate + Nitrite	Analytical result of 0.247 mg/L at M-001 exceeds the Average Monthly Effluent Limit of 0.23 mg/L	1
74	5/4/2009	Serious*/Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.613 mg/L at M-003 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
75	5/4/2009	Serious*/Chronic	M-003	Nitrate + Nitrite	Analytical result of 0.613 mg/L at M-003 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L by more than 40%	1
76	5/4/2009	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.624 mg/L at M-004 exceeds the Average Monthly Effluent Limit of 0.23 mg/L by more than 40%	1
77	5/4/2009	Serious*/Chronic	M-004	Nitrate + Nitrite	Analytical result of 0.624 mg/L at M-004 exceeds the Instantaneous Maximum Effluent Limit of 0.31 mg/L by more than 40%	1
Total Violations Subject to MMP						75

First three of four violations occurring in a period of six consecutive months. Only the serious violation on Line 2 is subject to MMP.

* - One of the 15 serious violations that are not included in the MMP calculation for chronic violations.

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent California Department of Fish and Game (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R6V-2010-0004 (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

☐ **(OPTION 1: Check here if the Dischargers waive the hearing requirement and will pay the liability.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board.
- b. I certify that the Discharger will remit payment for the civil liability imposed in the total amount of **two hundred twenty-five thousand dollars (\$225,000)** by check that references "ACL Complaint No. R6V-2010-0004" made payable to the "State Water Pollution Cleanup and Abatement Account."
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Water Board receive significant new information or comments from any source during this comment period, the complaint may be withdrawn, payment returned, and a new complaint issued. I understand that this proposed settlement is subject to approval by the Lahontan Water Board, and that the Lahontan Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability. Payment of two hundred twenty-five thousand dollars (\$225,000) will be due within 30 days of the settlement becoming final after the settlement receives Lahontan Water Board approval.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

☐ **(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines.)**

I hereby waive any right the Discharger may have to a hearing before the Lahontan Water Board within 90 days after service of the complaint, but I intend to request a hearing in the future. By checking this box, the Discharger requests that the Lahontan Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Lahontan Water Board to agree to delay the hearing.

(Print Name and Title)

(Signature)

(Date)

